

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

NATIONAL FOOTBALL LEAGUE	§	
PLAYERS ASSOCIATION, on its own	§	
behalf and on behalf of EZEKIEL	§	
ELLIOTT,	§	
	§	CASE NO. 4:17-cv-00615
Petitioner,	§	
	§	
v.	§	
	§	
NATIONAL FOOTBALL LEAGUE and	§	
NATIONAL FOOTBALL LEAGUE	§	
MANAGEMENT COUNCIL,	§	
Respondents.		

DECLARATION OF JEFFREY L. KESSLER

I, JEFFREY L. KESSLER, declare as follows:

1. I am a partner at Winston & Strawn LLP, and counsel for Petitioner National Football League Players Association (“NFLPA”) and Ezekiel Elliott (“Elliott”) in the above-captioned matter. I make this declaration based on my personal knowledge in support of the NFLPA’s Petition to Vacate Arbitration Award. If called upon to do so, I will testify competently to the facts set forth herein.

2. Attached as **Exhibit A-NFLPA-1** is a true and correct copy of a series of undated photographs of Tiffany Thompson (“Thompson”).

3. Attached as **Exhibit A-NFLPA-2** is a true and correct copy of a series of April 24, 2016 photographs of Thompson.

4. Attached as **Exhibit A-NFLPA-3** is a true and correct copy of a series of July 18, 2016 photographs of Thompson.

5. Attached as **Exhibit A-NFLPA-4** is a true and correct copy of a series of July 21, 2016 photographs of Thompson and Elliott.

6. Attached as **Exhibit A-NFLPA-5** is a true and correct copy of a July 21, 2016 photograph of Thompson.

7. Attached as **Exhibit A-NFLPA-6** is a true and correct copy of a series of July 21, 2016 photographs of Thompson.

8. Attached as **Exhibit A-NFLPA-7** is a true and correct copy of a series of July 22, 2016 photographs taken by the Columbus Division of Police.

9. Attached as **Exhibit A-NFLPA-8** is a true and correct copy of a series of July 22, 2016 and undated photographs of Thompson.

10. Attached as **Exhibit A-NFLPA-9** is a true and correct copy of a series of July 22, 2016 photographs of Thompson.

11. Attached as **Exhibit A-NFLPA-10** is a true and correct copy of a series of July 22, 2016 photographs of Thompson.

12. Attached as **Exhibit A-NFLPA-11** is a true and correct copy of the August 28, 2008 letter from H. Henderson regarding an Article 46 appeal decision.

13. Attached as **Exhibit A-NFLPA-12** is a true and correct copy of the October 1, 2010 letter from H. Henderson regarding an Article 46 appeal decision.

14. Attached as **Exhibit A-NFLPA-13** is a true and correct copy of the Columbus Police Division Directive for Domestic Violence effective August 1, 1987 and revised on October 15, 2010.

15. Attached as **Exhibit A-NFLPA-14** is a true and correct copy of the October 22, 2014 Decision on Discovery and Hearing Witnesses in the *Rice* disciplinary appeal issued by the

Honorable Barbara S. Jones (ret.).

16. Attached as **Exhibit A-NFLPA-15** is a true and correct copy of the November 28, 2014 Award in the *Rice* disciplinary appeal by the Honorable Barbara S. Jones (ret.).

17. Attached as **Exhibit A-NFLPA-16** is a true and correct copy of the 2016 NFL Personal Conduct Policy.

18. Attached as **Exhibit A-NFLPA-17** is a true and correct copy of the February 12, 2016 Aventura Police Department Incident Report.

19. Attached as **Exhibit A-NFLPA-18** is an annotated timeline of events from July 16, 2016 through July 23, 2016.

20. Attached as **Exhibit A-NFLPA-19** is a true and correct copy of July 15, 2016 through July 17, 2016 text messages exchanged between Thompson and M. Blades.

21. Attached as **Exhibit A-NFLPA-20** is a true and correct copy of the transcript from the video recorded in early morning of July 19, 2016.

22. Attached as **Exhibit A-NFLPA-21** is a true and correct copy of the video recorded in early morning of July 19, 2016.

23. Attached as **Exhibit A-NFLPA-22** is a true and correct copy of July 20, 2016 through July 26, 2016 text messages exchanged between Thompson and Elliott.

24. Attached as **Exhibit A-NFLPA-23** is a true and correct copy of July 20, 2016 through August 1, 2016 text messages exchanged between Thompson and S. Lee.

25. Attached as **Exhibit A-NFLPA-24** is a true and correct copy of the July 22, 2016 Preliminary Investigation Report from the Columbus Division of Police.

26. Attached as **Exhibit A-NFLPA-25** is a true and correct copy of the July 22, 2016 Witness Statement made by A. Mason to the Columbus Division of Police.

27. Attached as **Exhibit A-NFLPA-26** is a true and correct copy of the July 22, 2016 Witness Statement made by B. Moazampour to the Columbus Division of Police.

28. Attached as **Exhibit A-NFLPA-27** is a true and correct copy of the July 22, 2016 Witness Statement made by Elliott to the Columbus Division of Police.

29. Attached as **Exhibit A-NFLPA-28** is a true and correct copy of the July 22, 2016 Witness Statement made by D. Minney to the Columbus Division of Police.

30. Attached as **Exhibit A-NFLPA-29** is a true and correct copy of the July 22, 2016 Witness Statement made by T. Sandbothe to the Columbus Division of Police.

31. Attached as **Exhibit A-NFLPA-30** is a true and correct copy of July 22, 2016 text messages exchanged between Thompson and A. Mason.

32. Attached as **Exhibit A-NFLPA-31** is a true and correct copy of the July 27, 2016 text messages exchanged between Thompson and A. Mason.

33. Attached as **Exhibit A-NFLPA-32** is a true and correct copy of the August 1, 2016 affidavit of B. Moazampour.

34. Attached as **Exhibit A-NFLPA-33** is a true and correct copy of the August 2, 2016 affidavit of A. Jackson.

35. Attached as **Exhibit A-NFLPA-34** is a true and correct copy of the August 3, 2016 affidavit of S. Elliott.

36. Attached as **Exhibit A-NFLPA-35** is a true and correct copy of the August 11, 2016 affidavit of M. White.

37. Attached as **Exhibit A-NFLPA-36** is a true and correct copy of the August 12, 2016 affidavit of A. Jackson.

38. Attached as **Exhibit A-NFLPA-37** is a true and correct copy of the August 15,

2016 affidavit of C. Bosah.

39. Attached as **Exhibit A-NFLPA-38** is a true and correct copy of the September 5, 2016 Frisco Police Department Incident Report.

40. Attached as **Exhibit A-NFLPA-39** is a true and correct copy of the September 5, 2016 Voluntary Statement made by Elliott to the Frisco Police Department.

41. Attached as **Exhibit A-NFLPA-40** is a true and correct copy of the September 6, 2016 Official Press Release from the Columbus City Attorney R. Pfeiffer, Jr.

42. Attached as **Exhibit A-NFLPA-41** is a true and correct copy of September 21, 2016 text messages exchanged between Thompson and M. Blades.

43. Attached as **Exhibit A-NFLPA-42** is a true and correct copy of the transcript from the September 26, 2016 interview of Thompson by K. Roberts and K. Janke.

44. Attached as **Exhibit A-NFLPA-43** is a true and correct copy of the transcript from the November 16, 2016 interview of Thompson by K. Roberts and K. Janke.

45. Attached as **Exhibit A-NFLPA-44** is a true and correct copy of the June 6, 2017 NFL Investigative Report (“Elliott Report”) submitted by L. Friel and K. Roberts.

46. Attached as **Exhibit A-NFLPA-45** is a true and correct copy of the transcript from the June 26, 2017 meeting convened by the NFL to discuss the Elliott investigation and Elliott Report.

47. Attached as **Exhibit A-NFLPA-46** is a true and correct copy of the June 26, 2017 Expert Report of L. Giordano, M.D.

48. Attached as **Exhibit A-NFLPA-47** is a true and correct copy of the July 5, 2017 Medical Report of L. Thanning, M.D.

49. Attached as **Exhibit A-NFLPA-48** is a true and correct copy of the July 17, 2017

submission submitted by the NFLPA on behalf of Elliott in response to the NFL's investigation ("NFLPA Submission").

50. Attached as **Exhibit A-NFLPA-49** is a true and correct copy of the August 11, 2017 letter from B. Todd Jones setting forth NFL Commissioner Roger Goodell's disciplinary decision imposing Elliott's six-game suspension.

51. Attached as **Exhibit A-NFLPA-50** is a true and correct copy of the August 15, 2017 notice of appeal from H. McPhee to B. Todd Jones, A. Birch et al.

52. Attached as **Exhibit A-NFLPA-51** is a true and correct copy of the NFLPA's August 18, 2017 Request for Documents and Witnesses sent to the NFL.

53. Attached as **Exhibit A-NFLPA-52** is a true and correct copy of the NFL's August 22, 2017 letter responding to the NFLPA's Request for Documents and Witnesses.

54. Attached as **Exhibit A-NFLPA-53** is a true and correct copy of the NFLPA's August 22, 2017 Motion to Compel.

55. Attached as **Exhibit A-NFLPA-54** is a true and correct copy of the NFL's August 23, 2017 response to the NFLPA's Motion to Compel.

56. Attached as **Exhibit A-NFLPA-55** is a true and correct copy of arbitrator Henderson's decision on the NFLPA's Motion to Compel dated August 23, 2017 but issued on August 24, 2017.

57. Attached as **Exhibit A-NFLPA-56** is a true and correct copy of the August 25, 2017 letter from H. McPhee to H. Henderson demanding the NFL immediately produce the documents referred to in Dr. Thanning's report.

58. Attached as **Exhibit A-NFLPA-57** is a true and correct copy of the August 25, 2017 affidavit of M. Hewitt.

59. Attached as **Exhibit A-NFLPA-58** is a true and correct copy of Article 46 in the NFL-NFLPA Collective Bargaining Agreement.

60. Attached as **Exhibit A-NFLPA-59** is a true and correct copy of the curriculum vitae of Dr. M. Graham.

61. Attached as **Exhibit A-NFLPA-60** is a true and correct copy of the curriculum vitae of Dr. L. Thanning.

62. Attached as **Exhibit A-NFLPA-61** is a true and correct copy of the Digital Shield forensic report provided to the NFL.

63. Attached as **Exhibit A-NFLPA-62** is a true and correct copy of the December 8, 2007 article by N. Langlois, *The science behind the quest to determine the age of bruises—a review of the English language literature*.

64. Attached as **Exhibit A-NFLPA-63** is a true and correct copy of the January 19, 2010 article by M.L. Pilling et al., *Visual assessment of the timing of bruising by forensic experts*.

65. Attached as **Exhibit A-NFLPA-64** is a true and correct copy of the 2011 article by S. Grossman et al., *Can we assess the age of bruises? An attempt to develop an objective technique*.

66. Attached as **Exhibit A-NFLPA-65** is a true and correct copy of the June 20, 2013 article by M. Lecomte et al., *The use of photographs to record variation in bruising response in humans*.

67. Attached as **Exhibit B-NFL** (which include Tabs A through G and Exhibits 1 through 103) are true and correct copies of the exhibits produced by the NFL in the underlying arbitration before Arbitrator Harold Henderson.

68. Attached as **Exhibit C** is a true and correct copy of the transcript from the August 29-31, 2017 arbitration hearing before Arbitrator Harold Henderson.¹

69. Attached as **Exhibit D** is a true and correct copy of the December 11, 2012 Award in the *New Orleans Saints* (“*Bounty*”) disciplinary appeal.

70. Attached as **Exhibit E** is a true and correct copy of the December 12, 2014 Award in the *Peterson* disciplinary appeal.

71. Attached as **Exhibit F** is a true and correct copy of the June 22, 2015 Decision on Hearing Witnesses and Discovery in the *Brady* disciplinary appeal.

72. Attached as **Exhibit G** is a true and correct copy of the November 9, 2012 Pre-Hearing Order No. 4 in the *New Orleans Saints* (“*Bounty*”) disciplinary appeal.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 31st day of August 2017 at New York, New York.

By: /s/ Jeffrey L. Kessler
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¹ Petitioner will update these filings with the final August 31, 2017 Hearing Transcript when it becomes available.